

The claims require an assist element that stores energy when an actuator member is moved in an extended direction.

Yamada fails to anticipate the claims. As previously stated, Yamada discloses an assist element (11) that stores energy when an actuator member (4) is moved in a retracted direction. The assist element (11) is incapable of storing energy when the actuator member (4) is moved in the extended direction, as required by the claims.

The Examiner argues that the storing of energy in the manner claimed is functional language, and as such is not entitled to patentable weight. In support of this argument, the Examiner cites *In re Schreiber*, 128 F.3d 1473, 44 USPQ2d 1429 (Fed. Cir. 1997) and *Hewlett-Packard Co. v. Baush & Lomb Inc.*, 909 F.2d 1464, 15 USPQ2d 1525 (Fed. Cir. 1990). In response, Applicants refer the Examiner to pages 8-10 of Applicants' response filed September 26, 2006.

In view of the foregoing remarks, Applicants respectfully request that the Examiner withdraw the rejection of the claims over Yamada.

The Examiner has also rejected the claims as anticipated by each of US 4,546,296, to Washbourn, US 2,350,722, to Buckingham, and US 3,822,024, to Endter. In particular, claims 1, 2, and 4-6 are rejected over Washbourn. Claims 1, 2, 4-6, 8 and 9 are rejected over Buckingham. Claims 1-6 are rejected over Endter.

Claim 7 is not rejected by Washbourn, Buckingham, or Endter, and should be allowable over Yamada for the reasons set forth above.


35 USC 103

Claims 10-15 are rejected as being unpatentable over Yamada. These claims are believed to be allowable for at least the same reasons as set forth on pages 10-11 of Applicants' response filed September 26, 2006.

Conclusion

In view of the amendments and above remarks, it is believed that the application is in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested.

Respectfully submitted,



Charles F. Charpie, III
Reg. No. 56,321

MacMillan, Sobanski & Todd, LLC
One Maritime Plaza, Fifth Floor
720 Water Street
Toledo, Ohio 43604
(419) 255-5900